

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
MEXICO MARKETING, LLC
d/b/a Canadian Travel
d/b/a Patriot Travel
d/b/a CancunAllInclusive.net
d/b/a Cheap Tickets Cancun
d/b/a International Resort Reservations
d/b/a Cancun Adventures
d/b/a cancunbestfares
d/b/a cancunonsale.com
d/b/a Choosecancun.com
d/b/a Island Reef Resorts
d/b/a Vacations, Inc.
d/b/a Vacations IV
d/b/a your cancun vacation
d/b/a yourcancunvacation.com
d/b/a Priceline Cancun
File No.: EB-06-TC-130
NAL/Acct. No.: 200732170070
FRN: 0016560401

FORFEITURE ORDER

Adopted: March 21, 2011

Released: April 12, 2011

By the Commission:

I. INTRODUCTION

1. In this Forfeiture Order ("Order"), we impose a monetary forfeiture<sup>1</sup> in the amount of \$1,607,500 against Mexico Marketing, LLC ("Mexico Marketing") for willful and repeated violations of section 227 of the Communications Act of 1934, as amended ("Act"),<sup>2</sup> and the Commission's related rules and orders, by delivering 290 unsolicited advertisements ("junk faxes") to the telephone facsimile machines of 89 consumers.<sup>3</sup>

1 See 47 U.S.C. § 503(b)(1). The Commission has the authority under this section of the Act to assess a forfeiture against any person who has "willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act ...."; see also 47 U.S.C. § 503(b)(5) (stating that the Commission has the authority under this section of the Act to assess a forfeiture penalty against any person who does not hold a license, permit, certificate or other authorization issued by the Commission or an applicant for any of those listed instrumentalities so long as such person (A) is first issued a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission nearest to the person's place of residence; and (C) subsequently engages in conduct of the type described in the citation).

2 47 U.S.C. § 227.

3 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(3).

## II. BACKGROUND

2. This *Order* arises from three distinct *Notices of Apparent Liability for Forfeiture* (“*NALs*”) that were issued against Mexico Marketing. The facts and circumstances surrounding these cases are set forth in the *NALs*<sup>4</sup> and need not be reiterated at length.

3. The Telephone Consumer Protection Act of 1991 (“TCPA”) was enacted by Congress to address problems of abusive telemarketing – in particular, junk faxes.<sup>5</sup> As Congress recognized, unsolicited faxes often impose unwanted burdens on the called party, including costs of paper and ink, and making fax machines unavailable for legitimate business messages.<sup>6</sup> Section 227(b)(1)(C) of the Act makes it “unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States . . . to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement” except in certain limited situations.<sup>7</sup>

4. As the *NALs* discuss, the Enforcement Bureau (“Bureau”) issued a junk fax citation<sup>8</sup> to Mexico Marketing on June 30, 2006, in response to one or more consumer complaints alleging that Mexico Marketing had faxed unsolicited advertisements.<sup>9</sup> Mexico Marketing did not respond to this citation. Subsequently, the Commission received numerous additional complaints from consumers alleging that Mexico Marketing had faxed unsolicited advertisements to them. These violations, which occurred after the Bureau’s citation, resulted in the issuance of three *NALs* against Mexico Marketing: on July 31, 2007, December 28, 2007, and June 30, 2008.<sup>10</sup> The *NALs* ordered Mexico Marketing either to pay the proposed forfeiture amounts within thirty (30) days or to submit evidence or arguments to show that no forfeitures should be imposed or that some lesser amounts should be assessed.

## III. DISCUSSION

5. As with the citation, Mexico Marketing did not respond to the *NALs*. Accordingly, we affirm our findings that Mexico Marketing violated the Act and our rules on the 290 separate occasions listed in the Appendix.<sup>11</sup> Although the Commission’s Forfeiture Policy Statement does not establish a

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<sup>4</sup> *Mexico Marketing LLC*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 14196 (2007) (“*First Junk Fax NAL*”); *Mexico Marketing LLC*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 22218 (2007) (“*Second Junk Fax NAL*”); *Mexico Marketing LLC*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 10742 (2008) (“*Third Junk Fax NAL*”)(collectively “*NALs*”).

<sup>5</sup> Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394, *codified at* 47 U.S.C. § 227. *See also* Junk Fax Prevention Act of 2005, Pub. L. No. 109-21, 119 Stat. 359 (2005).

<sup>6</sup> *See, e.g.*, S. Rep. No. 1462, 102d Cong., 1<sup>st</sup> Sess. 2 (1991); H. Rep. No. 102-317, 102d Congress, 1<sup>st</sup> Sess. 10 (1991).

<sup>7</sup> 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(3).

<sup>8</sup> Citation from Kurt A. Schroeder, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, FCC, File No. EB-06-TC-130, issued to Mexico Marketing, LLC on June 30, 2006 (“*Junk Fax Citation*”).

<sup>9</sup> *See* 47 U.S.C. § 503(b)(5) (authorizing the Commission to issue citations to persons who do not hold a license, permit, certificate, or other authorization issued by the Commission and to applicants for any of those listed instrumentalities for violations of the Act or of the Commission’s rules and orders).

<sup>10</sup> *See* n.4, *supra*; *see also* 47 U.S.C. § 503(b)(1).

<sup>11</sup> While the *NALs* include violations committed by Travelcomm Industries, Inc. (“Travelcomm”), only the violations committed by Mexico Marketing are included in the attached Appendix and used as the basis for this forfeiture. We take no position at this time as to any liability Mexico Marketing might have for Travelcomm’s

(continued....)

base forfeiture amount for violating the prohibition against using a telephone facsimile machine to send unsolicited advertisements, the Commission has previously considered \$4,500 per unsolicited fax advertisement to be an appropriate base amount.<sup>12</sup> If a consumer has requested that the company stop sending facsimile messages, however, and the company continues to send them, the Commission has previously considered \$10,000 per unsolicited fax advertisement to be the appropriate forfeiture for such egregious violations.<sup>13</sup> Here, twenty-nine consumers had specifically requested that Mexico Marketing cease sending facsimiles. Notwithstanding these requests, an additional fifty-five facsimiles were sent to these consumers. Thus, we apply the \$10,000 amount to each of fifty-five of the apparent violations, and apply the \$4,500 amount to the remaining 235 violations. Since we have no evidence to suggest that the proposed forfeiture should be reduced or cancelled, we hereby impose a total forfeiture of \$1,607,500 for Mexico Marketing's willful and repeated violation of section 227 of the Act and the Commission's related rules and orders, as set forth in the *NALs*.<sup>14</sup>

#### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80(f)(4) of the Commission's rules, 47 C.F.R. § 1.80(f)(4), that Mexico Marketing, LLC **IS LIABLE FOR A MONETARY FORFEITURE** to the United States Government in the sum of \$1,607,500 for willfully and repeatedly violating section 227(b)(1)(C) of the Communications Act, 47 U.S.C. § 227(b)(1)(C), and section 64.1200(a)(3) of the Commission's rules, 47 C.F.R. § 64.1200 (a)(3), and the related orders as described in the paragraphs above.

7. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within thirty (30) days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.<sup>15</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Mexico Marketing, LLC will also send electronic notification to

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violations, or Travelcomm may have for Mexico Marketing's violations. Violations committed by Travelcomm are addressed in a separate forfeiture order. *Travelcomm Industries, Inc.*, FCC 11-49 (2011).

<sup>12</sup> See *Get-Aways, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 1805 (1999); *Get-Aways, Inc.*, Forfeiture Order, 15 FCC Rcd 4843 (2000); see also *US Notary, Inc.*, Notice of Apparent Liability for Forfeiture, 15 Rcd 16999 (2000); *US Notary, Inc.*, Forfeiture Order, 16 FCC Rcd 18398 (2001); *Tri-Star Marketing, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 11295 (2000); *Tri-Star Marketing, Inc.*, Forfeiture Order, 15 FCC Rcd 23198 (2000).

<sup>13</sup> See *Carolina Liquidators, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC 16,837, 16,842 (2000); *21<sup>st</sup> Century Fax(es) Ltd., AKA 20<sup>th</sup> Century Fax(es)*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 24,406, 24,411 (2000).

<sup>14</sup> See n.11, *supra*. The *First and Second Junk Fax NALs* include violations committed by Travelcomm Industries, Inc. The attached Appendix includes only those violations in the *NALs* committed by Mexico Marketing.

<sup>15</sup> 47 U.S.C. § 504(a).

[Johnny.Drake@fcc.gov](mailto:Johnny.Drake@fcc.gov) on the date said payment is made. Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

8. **IT IS FURTHER ORDERED** that a copy of the Forfeiture Order shall be sent by First Class mail and certified mail return receipt requested to Mexico Marketing, Attention: Jerry Decker, Rigoberto Sotolongo, 5895 Carrier Drive, Orlando, FL 32819; 5850 Lakehurst Drive, #280, Orlando, FL 32819; P.O. Box 300245, Casselberry, FL 32730; 322 W. Newell St., Winter Garden, FL 34787; P.O. Box 300039, Fern Park, FL 32730; 5439 International Drive, Orlando, FL 32819; 5859 Carrier Drive, Orlando, FL 32819; and 7205 International Drive, Orlando, FL 32819.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX

## Complainants and Violation Dates

Complainant received facsimile solicitations	Violation Date(s)
Bein, J.	3/13/07; 4/3/07; 4/6/07; 4/11/07; 4/16/07
Bice, J.	7/2/07
Burger, C.	7/12/07
Casey, A.	7/5/07
Church, M	2/8/07, 2/9/07
Cobb, A. (Cobb & Associates, Ltd.	9/28/06
Conachan, S.	7/12/07
Crochet, D.	7/13/07
Cuevas, L.	9/6/06
Cullen, M.	7/5/07
Davis, W.	10/30/06; 11/9/06; 12/8/06; 12/20/06; 1/15/07; 1/31/07; 2/6/07; 2/12/07; 2/16/07; 2/28/07; 3/12/07; 3/16/07; 3/22/07; 3/28/07; 4/3/07; 4/9/07; 4/12/07; 4/17/07; 4/20/07; 4/25/07; 4/30/07;
Descombes, K.	5/3/07; 5/4/07
Duranty, M.	7/3/07
Formisano, J.	7/6/07
Forta, B.	7/3/07
Gaudreau, L (Foothill Drilling, Inc.	11/06 (8 faxes); 12/06 (3 faxes)
Geisler, B.	7/10/07; 7/11/07; 7/12/07
Germann, S	7/5/07
Grdina, J.	8/7/06; 8/15/06; 8/24/06; 8/30/06
Grossman, R.	7/13/07
Hallikainen, H.	2/14/07
Hawkins, D. & D.	10/06 (12 faxes)
Hochhalter, L.	7/12/07
Hochstetler, D.	8/31/06
Jenkins, B.	8/29/06
Kahn, C.	3/12/2007
Kirschke, M.	7/10/07
Krul, G.	4/11/2007
Kulaski, W. (Kulaski Realty)	12/29/06; 1/3/07; 1/19/07
Kurzman, D (Backroom Sales)	10/16/06
Kuziela, T.	1/17/07
Lehner, J.	3/20/07; 3/26/07; 4/16/07
Lucas, R.	8/2/06; 8/21/06; 12/18/06; 1/10/07
Maelen, C.	3/30/07

Massey, C.	3/20/07; 3/22/07; 4/16/07; 4/18/07; 4/20/07
Maxwell, C.	4/11/2007
McMahan, N. (M. B. Kahn Construction Co., Inc.)	9/06; 10/06 (2 faxes); 11/06; 1/07 (3 faxes)
Merlo, J.	7/7/07
Morrison, D (Rotations, Inc.)	8/14/06; 8/22/06; 8/30/06; 2/22/07; 3/6/07; 3/12/07; 3/16/07; 3/26/07
Neumann, T.	8/20/06
Nicolais, R.	7/6/07
Norman, J. (Virginia Literacy Foundation)	10/9/06
O'Connor II, R.	4/17/2007
Oglesby, D.	7/3/07; 7/11/07
Paulson, C.	3/9/2007
Schultz, B.	8/11/06
Schutze, J.	7/5/07
Sherrod, D.	3/30/07; 4/2/07; 4/26/07
Shill, K.	8/1/2006; 7/12/07
Sifert, A.	7/2/07; 7/9/07
Silver, A.	12/5/06
Steiness, J.	7/3/07
Stewart, J.	8/16/06 (2 faxes)
Sutton, J.	8/11/06; 8/23/06; 8/29/06; 9/9/06; 9/28/06; 10/5/06; 10/11/06; 10/23/06; 10/28/06; 11/2/06; 11/3/06; 11/14/06; 11/17/06; 11/24/06; 12/11/06; 12/12/06; 12/15/06; 12/21/06 (2 faxes); 12/28/06; 1/11/07; 1/17/07; 1/23/07; 1/29/07; 2/2/07; 2/8/07; 2/9/07 (2 faxes); 2/20/07; 2/23/07; 3/6/07; 3/12/07; 3/16/07; 3/21/07; 3/27/07; 3/28/07; 4/5/07; 4/10/07; 4/13/07; 4/18/07; 4/23/07; 4/25/07; 4/30/07; 5/3/07; 7/12/07
Tilden, R. B.	9/5/06; 9/12/06; 9/24/06; 9/26/06; 1/3/07; 1/9/07; 1/15/07; 1/19/07; 1/25/07; 1/31/07; 2/12/07; 3/29/07; 7/4/07; 7/11/07
Van Stavern, T.	10/11/06; 10/17/06; 10/23/06 (2 faxes); 10/30/06 (2 faxes); 11/6/07 (2 faxes); 11/13/06; 11/16/06; 11/24/06; 12/7/06 (2 faxes); 12/13/06; 12/19/06; 12/27/06; 1/4/07 (2 faxes); 1/11/07 (2 faxes); 1/17/07 (2 faxes); 1/23/07 (2 faxes); 1/30/07; 2/6/07 (2 faxes); 2/9/07; 3/3/07; 3/5/07; 3/12/07 (2 faxes); 3/16/07; 3/22/07 (2 faxes); 3/28/07;
Wadley, W.	4/3/2007
Watson, M.	7/3/07
Yen, S.	7/1/07, 7/2/07
Zipp, B.	10/20/06

Complainant received facsimile solicitations after requesting no more be sent	Violation Date(s)
Agosto, W.	10/27/06; 11/14/06; 11/17/06; 11/24/06; 12/6/07; 12/26/07; 1/8/07; 1/12/07; 1/24/07
Beach-Roberts, S.	7/16/07, 7/27/07
Boon, T.	7/11/07
Buijs, L	4/9/07; 4/10/07; 4/12/07
Burns, Jr., J.	5/4/2007
Clark, R. (Community Housing Group, LLC)	8/17/06
Edwards, K.	8/4/06
Esposito, C. L.	12/26/06; 1/9/07
Esselman, C. (Eastern Modular Transportation)	9/18/06
Friedman, I.	11/1/06; 11/7/06; 11/13/06; 11/17/06; 11/27/06; 12/1/06
Gordon, E.	7/2/07
Graves, D.	10/2/06
Harlan, C.	10/24/06
Johnson, M.	4/9/07; 4/23/07
Massey, S.	1/10/07; 1/16/07
McElhatton, J.	11/20/06
Miles, R.	7/3/07; 7/10/07; 7/16/07
Murphy, B. (Packaging & Shipping Group, Inc.)	9/20/06
Muscat, L.	8/26/06; 9/11/06
Nash, V	7/16/07
North, M. (Lynux Works, Inc.)	1/24/07
Pendergrass, C.	3/14/07
Sonju, E.	1/31/07
Stein, A.	3/26/07; 4/2/07; 4/6/07
Steiness, J.	7/10/07
Storlid, S. (Natural Resources Consulting, Inc.)	9/8/06
Uttomark, T.	3/27/07; 4/12/07
Wilson, D.	9/6/06
Zapata, J. (Stern Capital, LLC)	9/27/06; 10/3/06